

Board of Contract Appeals
General Services Administration
Washington, D.C. 20405

December 9, 2003

GSBCA 16310-RELO

In the Matter of MICHAEL L. SCOTT

Michael L. Scott, Provo, UT, Claimant.

Kathleen W. San Salvador, Certifying Officer, National Finance Center, New Orleans, LA, appearing for Department of Agriculture.

DANIELS, Board Judge (Chairman).

A certifying officer of the Department of Agriculture asks whether the agency should reimburse employee Michael L. Scott for expenses he incurred in relocating from one permanent duty station to another. The difficulty perceived by the certifying officer is that Mr. Scott actually moved before formal travel orders were issued. (Indeed, it appears from the record presented to us that formal travel orders may never have been issued.) We conclude that the absence of these orders is no impediment to reimbursement of Mr. Scott's expenses, for prior to his move, the agency clearly manifested an intent to transfer him in the interest of the Government.

Background

On May 8, 2003, a human resources specialist with the Uinta National Forest wrote a letter to the district ranger of the Forest's Ogden Ranger District, where Mr. Scott was employed. A copy was sent to Mr. Scott. The correspondence states:

This letter confirms our offer and Mr. Scott's acceptance of a promotion to Forestry Technician (Assistant Helitack Manager) . . . in the Supervisor's Office, Uinta National Forest, located at Provo, Utah. The effective date of this action is May 18, 2003 with a reporting date of May 19, 2003. . . .

Mr. Scott is eligible for transfer of station with his acceptance. . . .

Please send your completed FS-6500-140 to Mr. [Michael] Schultz [the agency's regional relocation coordinator]

Do not incur any transfer of station expenses for which you will want reimbursement until after your authorization is approved by Mr. Schultz.

Mr. Scott actually reported for duty in Provo on May 18. The Ogden district ranger never completed a form FS-6500-140 ("Individual's Request for Authorization"), but Mr. Scott completed one on May 29. On the form, Mr. Scott sought authorization to incur various expenses in connection with his move from Ogden to Provo – his own travel between the two cities, transportation and storage of his household goods, actual temporary quarters subsistence expenses for a period of sixty days, a miscellaneous expense allowance, and the transaction costs involved in buying a residence in or near Provo. In signing the form, Mr. Scott agreed to remain in federal service for twelve months following the effective date of his transfer. The form was approved by an agency personnel officer – not Mr. Schultz – on June 4. It was then sent to an agency processing center, where it was "entered into system" on July 22.

Mr. Scott has asked to be reimbursed for at least a miscellaneous expense allowance and the transaction costs he incurred in buying a home near Provo on August 22. The employee says that he has been reimbursed for neither these items nor any other of his relocation expenses. The agency's response to Mr. Scott's voucher contains the notation, "Employee reported to new duty location prior to being authorized a transfer of station; therefore, he will not be reimbursed for the one-way move."

In responding to the certifying officer's request that we review this matter, Mr. Scott writes, "I . . . do not feel I should be affected by administrative problems that were beyond my control."

Discussion

The certifying officer's concern stems from her reading of a provision of the Federal Travel Regulation (FTR) which states in question-and-answer format:

May I relocate to my new official duty station before I receive a written travel authorization (TA)?

No, you must have the written TA (paper or electronic) before you relocate to your new official duty station.

41 CFR 302-2.2 (2002). The FTR defines the term "travel authorization" to mean "[w]ritten permission to travel on official business." 41 CFR 300-3.1.

We addressed an earlier version of this regulatory provision in Rudolph Gomez, Jr., GSBCA 15735-RELO, 02-2 BCA ¶ 31,984:

Although the general rule is that a transferred employee may not be reimbursed for expenses incurred prior to receipt of formal notification of a pending transfer, the Board and its predecessor [in settling federal civilian employee relocation expense claims], the General Accounting Office (GAO), have recognized that an exception may be made if the agency had manifested a clear

administrative intent to transfer the employee. Both the Board and GAO have recognized that evidence other than travel orders may be acceptable to establish an administrative intent to transfer an employee. Whether an agency has manifested a clear intention to transfer an employee prior to issuance of formal notification of its intent depends on the facts and circumstances of the specific situation presented for decision.

Id. at 158,083 (citations and quotations omitted).

Whether the May 8 letter from the human resources specialist regarding Mr. Scott's transfer constitutes permission to travel on official business is equivocal. The first two quoted paragraphs state definitively that Mr. Scott will be assuming a new job in a different location and that he is eligible for relocation benefits in conjunction with his move. The last two paragraphs, on the other hand, appear to make receipt of these benefits contingent on approval by Mr. Schultz, the agency's regional relocation coordinator.

We think it more likely than not that the letter is a travel authorization, for the agency seems to believe that Mr. Scott is eligible for reimbursement of expenses he incurred after some point in time, notwithstanding the fact that the contingency noted in the letter – Mr. Schultz's approval – has never been given. Even if the letter is not deemed a travel authorization, however, it most assuredly is a manifestation of a clear intention to transfer Mr. Scott from Ogden to Provo in mid-May 2003. See Connie F. Green, GSBCA 15301-RELO, 01-1 BCA ¶ 31,175 (2000) (compiling instances in which far less obvious actions have been held sufficient manifestations of intent to qualify employees for relocation benefits). It would be patently unfair in these circumstances to deny benefits to the employee simply because due to administrative errors, his formal request for authorization to incur reimbursable expenses was approved either after he transferred to a new duty station or by an individual without authority to make an approval.

Decision

Consequently, Mr. Scott should be reimbursed for all relocation benefits noted on his form FS-6500-140, beginning with the costs of his travel from Ogden to Provo.

STEPHEN M. DANIELS
Board Judge